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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,193	08/28/2006	Nils Toft	027651-282	2214

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EXAMINER

MCNALLY, DANIEL

ART UNIT	PAPER NUMBER
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1791

NOTIFICATION DATE	DELIVERY MODE
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11/03/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/553,193	Applicant(s) TOFT ET AL.	
	Examiner DANIEL MCNALLY	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/26/2006, 1/12/2006, 10/13/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 7 and 8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 uses the language "preferably" in lines 3, 4 and 6. It is unclear if the applicant wants to limit the claims by requiring the preferable elements. For the purposes of examination it will be assumed the preferable elements are optional elements that are not required. If the applicant would like these elements to be required then each appearance of the term "preferably" should be removed from the claims.

Claim 8 is unclear because it does not further limit the claim. Claim 8 depends from claim 7 and further limits the preferable elements. Because these elements are not required claim 8 does not require any further limitations of the method. Claim 8 also uses the language "preferably" which is unclear. For the purposes of examination it will be assumed the preferable elements are optional elements that are not required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Toft et al. [WO01/85565A1, herein "Toft '565"].

Toft '565 discloses a packaging material. The packaging material comprises a first layer of a first material and a second layer of a second material, as shown in Figure 1.

With regard to claim 12, Toft '565 discloses the packaging material is used to make a packaging container.

With regard to claim 13, Toft '565 discloses, as shown in Figure 1, the packing material comprises paperboard material with a hole provided therein, and the hole is used for an opening in the packing container.

5. Claims 11-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Laciacara et al. [US6279779, herein "Laciacara"].

Laciacara discloses a packaging material as shown in Figure 3, comprising a first layer of a first material and a second layer of a second material.

With regard to claim 12, Laciacara discloses the packaging material is used to form a packaging container as shown in Figure 1.

With regard to claim 13, Laciacara discloses the packing container comprises an opening arrangement as shown in Figure 1, located at a hole in the paper board material (5) as shown in Figure 3.

With regard to claim 14, Laciacara discloses the packaging container comprises a screw top that is arranged to opening the packing container by removing packaging material from the hole by a screwing and pulling motion (column 7, lines 6-54).

Claim Rejections - 35 USC § 102/103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 6-8 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Levendusky et al. [US5919517, herein "Levendusky"].

With regard to claim 1, Levendusky discloses a method of continuously joining a first layer of a first material and a second layer of a second material to produce a packaging material. The method comprises providing a first material (10), subjecting one or both sides of the material to surface treatment, and joining the first material (10) to a second material (24 or 34). Levendusky discloses the surface treatment may comprise a flame treatment and a plasma treatment used in combination (column 2, lines 40-49). In the event that Levendusky's disclosure does not anticipate the required surface treatment of the claim, it would have been obvious to one of ordinary skill in the art at the time of invention to pick and choose any combination of surface treatments

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from the lists of possible surface treatments as disclosed by Levendusky in order to improve bonding.

With regard to claim 6, Levendusky discloses the first material is an aluminum foil material.

With regard to claim 7, Levendusky discloses the second material is a thermoplastic polymer. The remaining elements of the claim language are preferable and assumed to be optional and not required; therefore the cited art satisfies the requirements of the claim.

With regard to claim 8, the elements of the claim language are preferable and assumed to be optional and not required; therefore the cited art satisfies the requirements of the claim.

With regard to claim 11, Levendusky discloses a packaging laminate comprising first layer of a first material and a second layer of a second material.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Levendusky.

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Levendusky discloses a method of continuously joining a first layer of a first material and a second layer of a second material to produce a packaging material.

Applicant is referred to paragraph 8 for a detailed discussion of Levendusky.

With regard to claims 2 and 3, one of ordinary skill in the art would have readily appreciated that either one of the flame treatment or plasma treatment could have been performed before the other, in order to improve the efficiency of heating the treated material and to improve the bonding of the treated material by routine experimentation.

With regard to claims 4 and 5, Levendusky does not explicitly recite surface treating over the entire surface area, however one of ordinary skill in the art would have readily appreciated treating the entire surface area to improve the bonding of the entire area, since the entire surface area is bonded to the second material.

11. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Toft '565, in view of either one of Levendusky or Kaschel et al. [EP1099544, machine translation provided, herein "Kaschel"].

Toft '565 discloses a packaging material and a method for making the packing material. The method comprises continuously joining a first material and a second material (page 3, line 33—page 7, line 15). Toft '565 discloses the first material may be an aluminum foil, and the exposed surface of the aluminum foil can be surface treated to promote surface adhesion with the second material (page 6, lines 1-9). Toft '565 is silent as to the surface treatment comprising a flame treatment and a plasma treatment steps.

Levendusky discloses a method of continuously joining a first layer of a first material and a second layer of a second material to produce a packaging material. Applicant is referred to paragraph 8 for a detailed discussion of Levendusky. Levendusky discloses the surface treatment may comprise a flame treatment and a plasma treatment used in combination (column 2, lines 40-49).

Kaschel discloses a method of producing a multilayer web of material with improved barrier properties. The method comprising joining an aluminum barrier layer with thermoplastic layers (paragraph 0013). Kaschel discloses preferably providing surface treatments to the layers before joining the layers, wherein the surface treatments comprise flaming or "flame treatment" and plasma treatment.

It would have been obvious to one of ordinary skill in the art at the time of invention to modify the method of Toft '565 by using a plasma treatment and flame treatment of the layers to be joined as taught by either one of Levendusky or Kaschel in order to improve adhesion between the joined layers.

With regard to claims 2 and 3, one of ordinary skill in the art would have readily appreciated that either one of the flame treatment or plasma treatment could have been performed before the other, in order to improve the efficiency of heating the treated material and to improve the bonding of the treated material by routine experimentation.

With regard to claims 4 and 5, Levendusky does not explicitly recite surface treating over the entire surface area, however one of ordinary skill in the art would have readily appreciated treating the entire surface area to improve the bonding of the entire area, since the entire surface area is bonded to the second material.

With regard to claim 6, Toft '565 discloses the first layer may be an aluminum foil layer.

With regard to claim 7, Toft '565 discloses the first layer is joined to a thermoplastic layer that can be extruded before the surface treatment, and can be co extruded with other layers. Toft '565 also discloses the outermost layer or "third layer" may comprise a polyethylene material.

With regard to claim 8, Toft '565 discloses the extruded layers can comprise a layer of LDPE.

With regard to claim 9, Toft '565 shows in Figure 1 that the first layer (4a) is joined to a bulk layer (1) which can be paper or paperboard having though holes, opening or slits (2), and the holes are covered by the second layer (4b) joined to the first layer.

With regard to claim 10, Toft '565 discloses the surface treatment can be directed at the portion of the web having the though-going holes (page 6, lines 22-29).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Toft et al. [US6436547, herein "Toft '547"] discloses a packaging material comprising multiple layers and a method for producing the packing material.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL MCNALLY whose telephone number is (571)272-2685. The examiner can normally be reached on Monday - Friday 8:00AM-4:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Daniel McNally/
Examiner, Art Unit 1791

/John L. Goff/
Primary Examiner, Art Unit 1791

/DPM/
October 26, 2008